

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION SUBCOMMITTEE MINUTES

April 11, 2007

**I.
ROLL CALL**

Present: Sandhu and Azevedo
Absent: Ciardella
Staff: Bejines, Kunsman and Reliford

**1. ADMINISTRATIVE
PERMIT NO. AD2007-5**

Tiffany Kunsman, Junior Planner, presented a request for 3-day outdoor event held from Friday, April 13, 2007 through Sunday, April 15, 2007 in the Town Center located at 555 E. Calaveras Blvd. to have a Starbucks Chill Patrol nationwide mobile van that brews sample size coffees for Grand Opening Events. Ms. Kunsman recommended approval with conditions.

Commissioner Sandhu asked how many people are they expecting and Ms. Kunsman said she wasn't sure.

Commissioner Sandhu asked how many parking spaces is needed for the van and Ms. Kunsman said six parking spaces.

Commissioner Sandhu asked if the event is open to the public and Ms. Kunsman said yes.

Motion to approve Administrative Permit No. AD2007-5.

M/S: Azevedo/Sandhu

AYES: 2

NOES: 0

**2. ADMINISTRATIVE
PERMIT NO. AD2007-4**

Tiffany Kunsman, Junior Planner, presented a request for a 4-day outdoor event held from Thursday, April 12, 2007 through Sunday, April 15, 2007. Safeway's Rancher's reserve Mobile Grilling Promotion will be held within Safeway's parking lot zoned Town Center (TC) located at 555 E. Calaveras Boulevard. Ms. Kunsman recommended approval with conditions.

Motion to approve Administrative Permit No. AD2007-4.

M/S: Sandhu/Azevedo

AYES: 2

NOES: 0

II. ADJOURNMENT

The meeting was adjourned at 6:45 p.m.

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

April 11, 2007

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Azevedo, Ali-Santosa, Mandal, Sandhu, Tabladillo and Williams
Late: Ciardella arrived at 8:35 p.m.
Staff: Armendariz, Bejines, Khaila, Marion, Oliva, Pio Roda, Reliford, Rodriguez and Whitecar

**III.
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
March 28, 2007**

Chair Williams called for approval of the minutes of the Planning Commission meeting of March 28, 2007.

Principal Planner Felix Reliford revised the following sentence on page 11:

Ms. Kunsman said there is no striped parking on the street and is concerned about parking issues.

to

Ms. Kunsman said there is no striped parking on the street and is not concerned about parking issues.

Commissioner Ali-Santosa revised the following sentence on page 8:

Commissioner Ali-Santosa disagreed with deleting Condition No. 29 because even if the check cashing area is not there, with respect to Western Union, there is still a financial transaction there because of Police concerns.

to

Commissioner Ali-Santosa disagreed with deleting Condition No. 29 because of concern by Milpitas Police Department and felt that even if the check cashing area is not there, with respect to Western Union, there will still be a financial transaction.

Motion to approve the minutes as amended.

M/S: Sandhu/Azevedo

AYES: 6

NOES: 0

APPROVED
April 11, 2007

**V.
ANNOUNCEMENTS**

Vice Chair Mandal pointed out that the Planning Commission received e-mails from Deborah Norling and Robert Armstrong opposing Item No. 1 (General Plan Amendment No. GM2006-1, Zone Change No. ZC2006-1, Site Plan and Architectural Approval No. SZ2006-5, Major Tentative Map No. MA2006-2 and Environmental Impact Assessment No. EA2006-4).

**VI.
CONFLICT
OF INTEREST**

Assistant City Attorney Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.

There were no Commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Staff had no changes to the agenda.

Motion to approve the agenda as submitted.

M/S: Azevedo/Sandhu

AYES: 6

NOES: 0

**VIII.
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

There were no items added to the consent calendar.

**IX.
PUBLIC HEARING**

**1. GENERAL PLAN
AMENDMENT NO.
GM2006-1, ZONE
CHANGE NO. ZC2006-1,
SITE PLAN AND
ARCHITECTURAL
APPROVAL NO. SZ2006-
5, MAJOR TENTATIVE
MAP NO. MA2006-2 AND
ENVIRONMENTAL
IMPACT ASSESSMENT
NO. EA2006-4**

Momo Ishijima, Senior Planner, presented a request to allow for the demolition of an existing industrial park and the construction of 368 podium and townhouse style residential condominium units, on-site surface and podium parking, recreational and open space facilities on 11.17 acres located at 1601-1765 South Main Street. The properties are proposed to be redesignated from Industrial Park to Multi-Family, Very High Density (31 to 40 dwelling units per acre) and rezoned from Industrial Park with "S" Zone Overlay District "MP-S" to Multi-Family, Very High Density with "S" Zone Overlay District "R4-S." A Supplemental EIR was prepared and circulated for this project. Mrs. Ishijima recommended the Commission adopt a Resolution recommending approval of General Plan Amendment No. GM2006-1, Midtown Specific Plan Amendment and Zone Change No. ZC2006-1 to City Council. She also recommended the Commission approve Major Tentative Map No. MA2006-2 based on the findings and recommended special conditions and adopt a Resolution recommending the certification of the supplemental Environmental Impact Report (Environmental Impact Assessment) No. EA2006-4 to City Council and approve Site Plan and Architectural Approval No. SZ2006-5 based on the findings and recommended special conditions.

Mrs. Ishijima also made the following corrections to the special conditions of approval in the staff report:

- *Special Condition #26 shall be modified to “Prior to the issuance of any permit, the applicant shall provide documentation to the approval of the City Attorney that 74 affordable housing units (20% of total number of units: 368) will be available at affordable housing prices.”*
- *Special Condition #28, last phrase, shall be modified to “(*) Per Aspen Apartments Project Approval only.”*
- *Special Condition #31 shall be modified to “The applicant and the City of Milpitas shall enter into Restriction Agreements that outline the provisions for maintaining the long-term affordability of the required affordable rental or for sale units. The Restriction Agreements shall be approved to form by the Milpitas City Attorney’s Office, executed by the City Manager and recorded with the County of Santa Clara.”*
- *Special Condition #32 shall be modified to “The Restriction Agreements shall require that the long-term affordability of the rental or for sale housing units shall remain in effect for 55 years. Any change to this requirement is subject to review and approval by the Milpitas City Council. “*
- *Special Condition #34 shall be modified to “The established affordable rents for the rental apartment or for sale price for residential units shall be pursuant to income eligibility provided by the California Health and Safety Code Sections 50079.5, 50093 and 50105 which provide the “very low” limits established by the U.S. Department of Housing and Urban Development (HUD) are the state limits for those income categories and State of California Redevelopment Agency Law. The final affordable rents or for sale price established for the apartment or for sale units shall not exceed the maximum allowable rents or for sale price for “very low” households as defined in the above code sections. Said rents or for sale price shall be approved for consistency with the definitions by the Housing Division staff.”*

Chair Williams pointed out that there is a need for commercial services in that area of town and asked Mr. Reliford if there is any plan for a grocery store or supermarket proposed.

Mr. Reliford said currently there are not enough households to support a large type of grocery store in that area. Staff is hoping that with the support of the Midtown Plan and Transit area plan, there will be a need for a grocery store in the future when more housing developments are built.

Chair Williams asked staff what mitigation measures are in place regarding protecting the current neighbors privacy. Mrs. Ishijima said the neighbors requested that the applicant set back the height so that the area closer to the property line was maybe one or two stories or another option was to remove the bedroom windows on the third floor. The applicant did consider this however felt it was not feasible because of the loss of square footage for the units that were considered along the perimeter and also because they are already providing double the minimum setback requirement so they did decided to go with the option of adding the trees to mitigate privacy rather than change the unit type.

Chair Williams asked if it was discussed to change the height of the wall? Mrs. Ishijima said the existing sound wall is. 7’ft. - 7’6” ft. and there was no discussion to raise that.

Commissioner Tabladillo asked what were the main issues addressed by the residents at the neighborhood community meeting? Mrs. Ishijima said the neighbors were mostly concerned about the loss of privacy.

Vice Chair Mandal said there is always a concern when it comes to potential loss of privacy for the neighbors, especially when a new property gets built right next to your home. He asked what kind of landscaping is the applicant proposing? Mrs. Ishijima said there are already mature trees bordering the Pines and the current development and there will be 107 of these trees preserved along the corridor. The applicant is willing to replace the unhealthy trees and add to the existing mature trees. The applicant also purposely laid out the project by putting the town homes near the existing homes and the podiums on South Main Street.

Vice Chair Mandal asked if the Pines residents would be able to access Warmington's recreation area? Mrs. Ishijima said there is controlled access for the Warmington residents to exit onto Greenwood Way (a public street) however to get back inside to Warmington it would be keyed access.

Commissioner Sandhu asked what is the minimum setback from the property line? Mrs. Ishijima said the minimum setback requirement is 10 feet from the side and rear property lines and they are proposing a variation from 15 to 40 feet.

Commissioner Sandhu asked what is the maximum height of the building and Mrs. Ishijima said 60 feet.

Commissioner Ali-Santosa needed clarification from Mrs. Ishijima's earlier statement that the trees would grow within 1 to 2 years and suggested that the applicant could plant a bigger older tree. Mrs. Ishijima clarified that she does not think the trees will grow within 1 to 2 years and that there are already mature trees there that the applicant will be adding too and did agree with his suggestion that the applicant could plant larger bigger trees.

Commissioner Tabladillo asked if the pool would be gated and Mrs. Ishijima said the pool needs to be fenced as required by the code.

Commissioner Tabladillo asked where will the mechanical room for the pool be located? Mrs. Ishijima said the mechanical room will be soundproofed and included within the recreation building.

Commissioner Tabladillo asked if there will be time restrictions for the pool and the recreation area? Mrs. Ishijima said the applicant has not proposed a time limit however property management could consider it.

Chair Williams said a time limit could be added as a condition of approval.

Commissioner Azevedo asked how many parking spaces are allowed per dwelling unit. Mrs. Ishijima said for the one-bedroom units, 1.5 parking spaces are allowed and for the 2 and 3 bedroom units, 2 parking spaces are allowed.

Commissioner Azevedo asked if there will be assigned parking. Mrs. Ishijima said the town homes have their own individual parking garages and the podium houses have assigned side by side and tandem parking.

Chair Williams said he doesn't recall reading an allowance of private street parking in the staff report. Mrs. Ishijima said there are 85 surface parking spaces and they will all be guest parking spaces.

Chair Williams said he is concerned about having several residents at once occupying a structure which adds to traffic and parking congestions. He asked if multiple parking would be monitored? Ms. Vingo said all parking will be monitored by the HOA.

Commissioner Tabladillo asked why is there only one trash enclosure on site? Mrs. Ishijima said the trash compact enclosure is located near the Union 76 gas station and the applicant is proposing using a trash contractor. She explained that each of the podium buildings has two trash shoots that end up in the garage below. The trash contractor will collect the garbage and move it to the trash compactor that will compact the trash. For the 111 units town homes they will have bin spaces within the garage and on assigned days, the trash contractor will pick up the garbage and move it to the trash compactor and then at the end, BFI will pick it up and collect it.

In regards to Vice Chair Mandal's question, Mehdi Khaila, Principal Civil Engineer, said the wastewater treatment facility incorporates different BMP's. He said rainwater ends up in swales and that is one way to treat them. He also said mechanical devices have been incorporated into the design of the projects that have taken rain water and ultimately end up in those devices and they will refilter before they enter the City's storm drain system. He said those devices are checked and rechecked on an annual basis to change the filters.

Vice Chair Mandal asked if that water could be used to water the plants? Mr. Khaila said no because it goes into the storm drain and is not recirculated.

Chair Williams asked if the City has a storm drain reclamation system? Mr. Khaila said that certain ponds or detention basins throughout the City have sediments that are drained and cleaned and the clean water ends up in the treatment plants and is reused.

Commissioner Azevedo asked if there are any elevators in the podium buildings and Mrs. Ishijima said there are two in each building.

Commissioner Tabladillo needed clarification on Condition no. 45 that reads below:

- *Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)*

Mr. Khaila said that preliminary studies are done that show the City has adequate capacity to serve the project for sewer, water and storm drain purposes however detailed status is done after Commission and City Council approval. That is when staff prepares construction plans and determines that the project has adequate sewer, water and storm drains to serve the residents.

Commissioner Tabladillo asked where is the handicap parking located? Mrs. Ishijima said that the handicap parking spaces are located in front of the recreation building and throughout other surface parking spaces and accessible parking spaces are provided in the podium parking garages as well.

Chair Williams introduced the applicant

Donna Vingo, 2010 Crow Canyon Place, San Ramon, Ca, presented her PowerPoint presentation about the Estrella project to the Commission.

Chair Williams pointed out that an e-mail was forwarded to the Commission from a resident along with a photo of the resident's backyard over looking the current development. He said from the photo, there is a 6-foot wall and some trees and some areas where it is very open and the building is visible. He asked Ms. Vingo to clarify?

Ms. Vingo said the trees were just trimmed about a month ago and the landscaper did a drastic trimming job that was arranged by the property management group and they are also deciduous trees so they don't have leaves on during the winter. The applicant is planning on installing evergreen trees and they will not be trimmed like the deciduous trees.

Chair Williams asked what is the possibility of increasing the height of the wall from 6 feet to 10 or 12 feet because of visual and noise impacts? Ms. Vingo said that one of the major problems of doing that is that the applicant would have to take down the current wall and be reengineered with the footing to support a 10 or 12 foot wall and the wall is between two and four feet on Warmington's property and one of the conditions in the landscaping easement is if that wall comes down, Warmington could back to their property line which would make the residents unhappy because they could lose two to four feet of their entire backyard.

Commissioner Ali-Santosa said in the photo, there are power lines in the residents' backyard and that is probably the reason why the trees were trimmed. He suggested that maybe the power lines could be undergrounded so that the trees could grow denser and will give the residents more privacy. Ms. Vingo said the power line easement is all on the residents' property and that is not something Warmington could do.

Commissioner Ali-Santosa said it could be possible for the residents to work with PG&E and Ms. Vingo and Chair Williams said it is very expensive.

Mr. Reliford said for the record, staff has received two e-mails addressed to the Commission, one from Robert Armstrong and Deborah Norling and a letter from the Economic Development Commission opposing the project.

Chair Williams opened the public hearing and asked the residents to state their name, address, and proximity to the project.

Robert Armstrong, 1636 Fallen Leaf Drive, lives immediately adjacent to the Warmington property, is opposed to the project because he is concerned about privacy and noise issues. He currently can sit at his window and see people working in their 2nd story office. He said he checked the arborist report and they did not recommend changing the types of trees behind his home. He is also concerned that his bedroom window will be near the recreation area and he will be able to hear all outdoor events parties and meetings.

Deborah Norling, 1636 Fallen Leaf Drive, lives immediately adjacent to the Warmington property, is opposed to the project. She said that she has worked in Silicon Valley for 30 years and has never driven a car. She said in that area, VTA has proposed to drop 2 out of 7 bus routes and felt that when BART finally comes, nobody would use it. She said the EIR repeatedly states that increase traffic is unavoidable and is concerned that the City is mandating 31 to 40 units and in some cases 60 dwelling units per acre. She said projects like Warmington and high density housing are sabotaging quality of life and pretty soon homeowners will leave and renters will come.

Don Peoples, owns a business on 620 S. Main street, is opposed to the project. He has been actively involved with the Midtown Plan and believes in a fair and legitimate process. He said growth is inevitable, and the only way to build homes is to require higher density, and the only way to have higher density is by having a community where people can live, work, shop and entertain without the possibility of using their car. He said this project, regardless of what the City and developer says, violates the Midtown Plan because it is not compatible with the Midtown Plan and will take the jobs of 300 to 400 people. He urged the Commission to deny the project.

Lad (Resident), 1825 Forest Court, lives 100 feet away in the Pines, felt that the neighbors would be highly impacted by this project. He said he would not be able to view the hills from his home and would have to drive across town to look at hills. He said there are major traffic problems in the area and felt that it is unfair for Warmington to completely close off their road and still be able to use the Pines street. He is also concerned that there will be no commercial services. He asked the Commission to deny the project.

Commissioner Ciardella arrived at 8:35 p.m.

Larry Luberto, 1658 Fallen Leaf Drive, lives immediately adjacent to the Warmington Property, felt that Milpitas is such a beautiful community and is becoming congested with traffic, noise and litter problems. He felt that the new project is uncalled for and will change his lifestyle. He is against the project.

Philip Tuitt, 1756 Pinewood Court, lives directly adjacent to the Warmington property, said he is concerned about the lack of oversight and accountability of the applicant in terms of compromises and being a good neighbor. He said they have tried to work with the applicant to plant more trees, raise the height of the wall or change the window locations and all requests have been turned down. He felt that the applicant is acting irresponsible and said his property will eventually become a rental property. He is against the project.

Helen Tuitt, 1756 Pinewood Court, lives directly adjacent to the Warmington Property, said when the Midtown Specific Plan was drafted, the Warmington site was kept in industrial park. With the influx of thousands of homes that are currently being built, if this site is rezoned from very high density housing where will the businesses that serve the residents be? The residents are coming and the City needs to plan ahead. She quoted Mr. Reliford's earlier comment that in order to build a grocery store on that side of town more homes are needed, however she felt that by the time more homes are built, there will be no more land to build a grocery store. She is concerned that Warmington is putting three level town homes behind her house and is mainly concerned with privacy. She doesn't think that the trees would be adequate enough for privacy and is suggesting opaque windows that don't open or can't be replaced or windows that are set higher.

Rob Means, 1421 Yellowstone, lives four miles away, said he is an advocate for affordable housing and transportation. He said the signal on Main Street will be an external cost of the proposed development and the citizens will have to pay for it. He said he is surprised that traffic impacts are not better addressed in the EIR. Moving on to global warming, he said we are in a planetary emergency and he is concerned that he doesn't see any response to this project in regards to solar energy use. He felt this project is in violation of the Midtown Specific Plan and urged the Commission to deny the project.

Frank De Smidt, Economic Development Commission, said that the Commission is opposed to the project because it fails to adhere to the Midtown Specific Plan and the goal of business retention. The site is in an industrial park and the EIR shows that possibly 350 to 440 employees based on 39 active businesses will lose their jobs. He is not aware of any plan to relocate these businesses and said it is very difficult to relocate because of high costs and many employers may decide to close their doors. He said that recently one of Milpitas' oldest businesses moved off of Main Street and moved to another location and is now moving to southern California. He felt that moving the current businesses will have substantial impacts to Milpitas.

Mr. Kumar, 1167 Sunrise Way, lives about a mile away from the project, said he is against another development and another red light. He felt the City is building like crazy and that their used to be a beautiful view of the hills however now all that is visible are nice buildings. He felt that the residents deserve a nice view of the hills and that pretty soon, Milpitas will be made to look like Los Angeles and there will be a lot of congested traffic. He said enough is enough and Milpitas should stay just the way it is.

Motion to close the public hearing.

M/S: Mandal/Azevedo

AYES: 7

NOES: 0

Commissioner Sandhu asked how much access will the Warmington residents have to the Pines? Mr. Reliford said the kids from Warmington would attend Zanker school which is located in the Pines and instead of going South on Main Street, the kids would have access on Greenwood Way.

Vice Chair Mandal asked if there will be on street parking on Main Street and Mrs. Ishijima said no.

Vice Chair Mandal said he is concerned about overflow of parking issues with the new development. He felt that developers are bringing good projects forward but are providing the bare minimum of parking to support the residents and as a result, the project will not be able to support itself.

Commissioner Tabladillo asked if the applicant or city staff ever thought about incorporating a mixed-use concept such as providing a commercial aspect mixed in with residential? She felt that in that area, there is so much growth and she would like to see the project provide a livable community where people can walk to a transit corridor instead of getting in their cars and adding traffic to the streets.

Mr. Reliford said that staff did not consider that however did acknowledge it. He said that there are several mixed-use projects coming down the pipeline in the Midtown area.

Commissioner Tabladillo asked how does the applicant plan on mitigating the displaced businesses in the complex?

Diana Whitecar, Economic Development Manager, said she did not have a direct conversation with the developer because the Commission has to walk a delicate line with the developer because the Commission is not a land use commission. She said at their last meeting, the Commission talked about business retention and recruitment and the Commission took a vote with their position of this project. She said she was unaware if Warmington has a formal business plan but she came up with some ideas for business relocation assistance. They suggested that the developer work with the businesses as much as possible and not set a precedence of not dealing with impacted businesses. She said most of the businesses are very small and they do not have the depth or the staffing capacity to think through what a move entails. Lots of businesses struggle with that because of the size of their business and there are not a lot of buildings to accommodate them. She felt that it would be nice if the developer would work with them. Below are the recommendations from the Economic Development Commission.

Opportunities for Business Relocation Assistance

- 1. Try to find locations in Milpitas for the businesses. Contract with commercial brokers to identify Milpitas locations. Provide a recap to the City prior to demolition permit issuance or whatever is the first permit issued, on what actions were taken to assist each business.*
- 2. Provide business relocation services – business guidance for moving. Utilities services either through a private vendor or Silicon Valley Small Business Development Center.*
- 3. Provide adequate notice to all businesses to give them time for planning their move.*
- 4. Provide advertising or an announcement in the Milpitas Post of the new locations for the business.*

Commissioner Ciardella said he would like to see a condition added where Warmington has a locked gate. He said he is concerned with a three story home looking down at ground level homes and would like to see a condition added where the trees that are planted are at least 48 inch or 72 inch box trees and is concerned about the height not the size of the box. He said it is a good idea about making the windows higher or opaque windows.

Commissioner Ali-Santosa said he is concerned that the Union Pacific Railroad is nearby and asked if the City has a warning system in place in case there is a major derailment regarding hazmat. Mrs. Isijima said that she believes the Fire Dept. is requiring a warning system to be implemented on site.

Commissioner Ali-Santosa asked if there is one in place now? Chair Williams said that warning systems that are in place now are on the other side of Milpitas. He said this area has always been isolated as far as density of residency. He said there is a siren near the Great Mall and can be heard vaguely. He said the City would probably have to reevaluate that and have the Fire come back to the Commission with suggestions.

Commissioner Azevedo said he will not support this project and he is in agreement with the Economic Development Commission that the project does not conform with the Midtown Specific Plan.

Chair Williams said he is the only person that was on the Midtown Plan Subcommittee and felt that the intent of the Plan was to incorporate mixed use and high occupancies to address the younger generation that cannot afford a place to live and who are trying to move to the area and felt that this project is in line with the Midtown Plan. He did agree that the applicant should install opaque windows for the upper stories and increase the height of the wall to provide more privacy for the residents.

Vice Chair Mandal said he has heard conflicting stories whether this project is in conformance with the Midtown Plan and asked staff their opinion. Mrs. Ishijima said the intent of the project was to make it compatible with the Midtown Plan.

Vice Chair Mandal asked if the Commission recommended that the applicant increase the height of the wall, how will it affect air flow and ventilation for the property owner in the back? Mr. Reliford said that the wall will serve as a barrier to noise. As far as airflow, he could not give a direct answer.

Mrs. Ishijima suggested that if the Commission desires for the applicant to increase the wall, the applicant should negotiate with each of the property owners bounding that wall because she is not sure if each of the property owners would be in agreement with raising the wall. She also pointed out that some of the homeowners have landscaping and accessory structures abutting the wall along with PG&E lines, which might affect construction.

Commissioner Ciardella asked if the Commission could require the applicant to pay relocation costs to displaced businesses. Assistant City Attorney Pio Roda recommended that be negotiated with the applicant and the developer first. There is no specific requirement in the code that says the City be required to pay business relocation services as it would for other relocations such as the Mobile Home Park relocation which is required by code. He suggested that the Planning Dept. go back and discuss that and there is no legal requirement either way.

Mr. Reliford said that would have to be negotiated with the property owner in regards to that and the property owner is tied to the leases there and can let the leases run out over time and that is nothing the City wants to see. The city can always work with the developer and the property owner regarding business retention options.

Chair Williams said that is a good point however there are other developments coming along and it would be a financial hardship. He said without a city policy he doesn't know how much leverage the Commission has and he felt that they have to be fair to all developments.

Commissioner Sandhu said that every project that comes to the City in itself has its merits and this particular project brings problems to residents such as traffic, parking, and privacy. He thinks the developer should have considered this project as a mixed-use project where the City could still retain businesses and meet the goals of the Midtown Plan. He said his vote would be based on if the developer would come back with a mixed-use development and felt that some businesses should be retained in that area.

Commissioner Tabladillo said she believes that this is a good project and is concerned why they didn't consider mixed use considering the project is abutting against an established neighborhood. She encouraged the developer to go back and create a mixed-use project and suggested they look at other similar projects in Santa Clara County. She said she can't support the project as submitted tonight.

Chair Williams asked if the applicant could compromise and look at the area adjacent to the property owners and consider that to be part of the commercial establishment and encouraged the applicant to look outside the box.

Commissioner Ciardella said he would be in support of the project if the height of the trees were sidelined so the neighbors wouldn't be able to see into the backyard and if the windows were opaque.

Motion to continue the project to a date uncertain, readvertise the project, and encourage the applicant to come back with a mixed-use project.

M/S: Azevedo/Mandal

AYES: 7

NOES: 0

RECESS

The meeting was recessed at 9:21 p.m. and resumed at 9:31 p.m.

X. PRESENTATION

2. PRESENTATION OF THE 2007-2012 CAPITAL IMPROVEMENT PROGRAM (CIP)

Greg Armendariz, Director of Public Works and Engineering, presented the 2001-2012 CIP Program and recommended that the Commission find the proposed 2007-2012 CIP in conformance with the General Plan and recommend the Proposed Capital Improvement Program to City Council.

Chair Williams asked about the Gateway sign project and is concerned why this is going straight to City Council and not to the Planning Commission. He asked if this sign will be meaningful giving recognition to Milpitas. Mr. Armendariz said that Ms. Whitecar had originally proposed a high tower however it was very expensive and was going to cost the City three quarters of a million dollars. Staff looked into something more modest and wanted to be able to locate the signs at different locations in the city. He said he would talk to Ms. Whitecar about bringing the sign to the Planning Commission first.

Chair Williams asked if City has finally reached their goals in regards to the telecommunication systems infrastructure? Bill Marion, Director of Information Systems, said yes and they are now worried about replacement as the City progresses in the future. City Hall is now 5 years old and the building is starting to reach the end of its service life and staff is very concerned and has even mapped its requirements over the next 10 years. Public Safety radios have a ten year life span and finished that about 3 years ago and in seven more years will need to start that process gain. Mobile computers in police cars and fire trucks and have a three-year life span and all these things are starting to fall into the replacement cycle. He said the good news is the City has the funding to last for three years into the seven years and are looking at 3.6 million dollars additional that will be needed for equipment replacement.

Chair Williams said he commends the IS Dept. and is very proud that the City is more technologically advanced than other cities.

Commissioner Ciardella noted on Page 1, the City did not receive any money for grants and asked staff to clarify. Mr. Armendariz said that the City did receive several hundred thousands of dollars in additional grants the last fiscal year for pavement resurfacing projects. He also pointed out at the next Council meeting, staff is presenting a consulting agreement with a grant consultant to assist staff in finding additional grants. Staff recognizes the importance of not chasing state and federal grants and is looking at the private sector.

Commissioner Ciardella asked about the sewer fund finance sources and said this year it is \$150,000 and asked why did it jump to 2 million the following year? Mr. Armendariz said this year the City will work on a lift station in the Pines area. It is a very small pump station and has electric pumps, a control system and other components that have reached the end of their life. It also doesn't have the ability to plug in an emergency generator in case of a major earthquake or power outage. He said they are focused on completing the Main Street pump station, which is a 30 million dollar investment and said there weren't any other sewer projects that needed to be done this year.

Commissioner Ciardella asked if the City has addressed the South Bay aqueduct on the Hayward fault that has a 10-foot diameter pipe and asked what would happen if it were to brake during a major earthquake? Mr. Armendariz said the state is mandating that the Santa Clara Valley make the necessary seismic retrofitting to make sure that after a major event, the population can be sustained and that the amount of damage is minimized. He said there is a valving system in place for those large pipes, and have to make sure the valving is close enough to be able to close the area to make those repairs.

Commissioner Ciardella asked if Mr. Armendariz has any impact on making those requests. Mr. Armendariz said he does not have the ability to make those specific requests however he could express concerns. He said the aqueduct goes along Piedmont road into San Jose.

Commissioner Ciardella asked what is the purpose of the corporation yard canopy? Mr. Armendariz said the purpose of the canopy is to prevent any pollution into the storm drain system so when fuel is spilled and it rains, it doesn't go into the storm system.

Commissioner Ciardella asked about the highway 237, Interstate 880 interchange, and asked why is the City spending \$200,000. Mr. Armendariz said the City made a commitment to do utility relocation and the right away mapping.

Commissioner Ciardella asked about the proposal to build a five-foot sidewalk over the Calaveras overpass. Mr. Armendariz said within two years, the City will have the new library, senior housing and the health center. The library will have over 2000 patients every day and the health center will have 2000 patients per day. He said the importance of providing a pedestrian connectivity over the railroad tracks becomes more important. Unfortunately, the over crossing does not have bike lanes because of the high speeds, and that existing five foot sidewalk is used for both bicyclists and pedestrians. The intent is that the existing sidewalks be widened. With respect to the replacement, he is working with VTA on a plan study for bridge structures. That is a fifteen-year process, however more recently, VTA has recognized that BART would have to retrofit that structure and are now looking at accelerating the replacement of the structure before BART revenue service 2017. He said they are looking at replacing and widening that bridge structure from two lanes in each direction to four lanes in each direction and will have bike lanes. He said if the replacement project becomes accelerated, it would be approximately \$80 million dollars.

Commissioner Ciardella said he is very concerned and doesn't agree with spending that money to widen a five-foot sidewalk.

In regards to Commissioner Mandal's question, Mr. Armendariz said the City looks at level of funding for other cities and pavement is one of the larger programs. He said they do have a pavement conditioning index and there are state grants available.

Commissioner Sandhu asked about the Calaveras overpass. Mr. Armendariz said it is a 20-year process and they would have to compete on a statewide level and are looking at retrofitting those structures and obtaining additional funds.

Commissioner Tabladillo asked if Comcast is funding the public cable access facility solely and Mr. Marion said yes and will additionally receive \$50,000 a year for five years, and the City is in the third year.

Commissioner Tabladillo asked how does the City plan to recuperate costs with Comcast and AT&T? Mr. Marion said the City's agreement with Comcast is having them provide funding for construction and a set amount per each year. Under the new state franchise, the language deals with a percentage of the operator's gross revenue and also language that says multiple providers will split the cost of the tech support.

Commissioner Tabladillo asked if future costs could go down for residents and Mr. Marion said it will not change.

Commissioner Tabladillo asked about the community warning system plan and how does the City plan on talking to other cities in case of an emergency. Mr. Marion said that the south bay area is part of an urban area and the City has received several grants and one idea is to interconnect other cities, and another idea would be to use common coordination channels such as a 911-interface system. There is currently a pilot project where the City is connected to the City of San Jose and Santa Clara county.

Commissioner Tabladillo asked why are administration costs so high for the BART project? Mr. Armendariz said VTA is on an accelerated program and staff is putting in extensive time and effort working with VTA.

Motion to find the find the proposed 2007-2012 CIP in conformance with the General Plan and recommend the Proposed Capital Improvement Program to City Council.

M/S: Mandal/Ali-Santosa

AYES: 7

NOES: 0

XI. ADJOURNMENT

The meeting was adjourned at 10:34 p.m. to the next regular meeting of April 25, 2007.

Respectfully Submitted,

Felix Reliford
Principal Planner

Veronica Bejines
Recording Secretary